

Message Text

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ACTION L-03

INFO OCT-01 IO-13 ISO-00 CIAE-00 COME-00 EB-08 INR-07
LAB-04 NSAE-00 SIL-01 INRE-00 SSO-00 AF-08 ARA-06
EA-07 EUR-12 NEA-10 /080 W
-----221821 001288 /43
O R 221735Z FEB 77
FM USMISSION GENEVA
TO SECSTATE WASHDC IMMEDIATE 5391
INFO USMISSION USUN NEW YORK

C O N F I D E N T I A L SECTION 1 OF 2 GENEVA 1288

E.O. 11652: GDS
TAGS: ILO
SUBJECT: STATUS OF EFFORTS TO AMEND ARTICLE 17 OF ILO STANDING
ORDERS

REF: (A) STATE 34974 (B) POSITION PAPER (WITH ATTACHMENTS)

1. SUMMARY: CONSULTATIONS WITH ILO OFFICE LEGAL STAFF AND
WITH IMEC GROUP INDICATE POSSIBILITY PURPOSES OF PROPOSED
CHANGES (REFS A AND B) IN US AMENDMENTS TO ARTICLE 17 MAY BE
ACHIEVED BY CAREFUL PRESENTATION IN GOVERNING BODY (GB)
STANDING ORDERS COMMITTEE (MEETING FEB. 25) AND IN PLENARY
OF GB (MARCH 1-4). USDEL OBJECTIVE IS TO HAVE ANY LENGTHY
SUBSTANTIVE DEBATE AND DISCUSSION THIS WHOLE ISSUE (OF
AMENDING ARTICLE 17) POSTPONED TO STANDING ORDERS COMMITTEE
OF ANNUAL CONFERENCE WHERE THERE WILL BE SUFFICIENT TIME TO
REFINE LANGUAGE. END SUMMARY.

2. BACKGROUND: AS DEPT AWARE, US PROPOSALS TO AMEND
ARTICLE 17 TO PROVIDE SCREENING MECHANISM FOR RESOLUTIONS
HAVE BEEN DISCUSSED IN ILO WORKING PARTY ON STRUCTURE (WPS),
EVEN THOUGH AMENDING ARTICLE 17 REALLY IS NOT STRUCTURAL
CHANGE. TEXT OF US PROPOSAL, WHICH WAS REVISED TO
TAKE INTO ACCOUNT SOME CONCERNS OF DEVELOPING
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COUNTRIES, HAS NOW BEEN REPRODUCED FROM WPS
MINUTES AND OFFICIALLY DISTRIBUTED (IN ACCORDANCE
WITH DECISION OF NOVEMBER GOVERNING BODY) FOR
CONSIDERATION BY GB STANDING ORDERS COMMITTEE.
COMMITTEE HAS EIGHT ITEMS ON AGENDA AND ARTICLE 17
COMES LATE, SO TIME CONSTRAINTS PRESENT REAL
PROBLEM EVEN IF COMMITTEE AGREES TO A SATURDAY

SESSION WHICH WOULD BE UNUSUAL.

3. IMEC GROUP DISCUSSED AMENDMENT OF ARTICLE 17 FEB. 22, WITH CHAIRMAN MAINWARING (CANADA) STATING THAT "TYRANNY OF TIME" MAKE IT DESIRABLE TO AVOID CHANGES IN TEXT, OF US PROPOSAL, ADDING THAT THERE WILL BE AMPLE TIME DURING STANDING ORDERS COMMITTEE OF ANNUAL CONFERENCE IN JUNE TO CHANGE US PROPOSAL IF NECESSARY. SEVERAL SPEAKERS WHO SUPPORTED US PROPOSAL URGED THAT IF ANY CHANGES WERE MADE, THEY SHOULD BE TO ACHIEVE SIMPLIFICATION OF WHAT SEEMED TO SOME TO BE SOMEWHAT DETAILED AND COMPLEX AMENDMENT TO ARTICLE 17. USDEL POINTED OUT THAT US TEXT OF ARTICLE 17 AMENDMENT HAD ALREADY BEEN CHANGED TO REFLECT CONCERNS OF DEVELOPING COUNTRIES AND ANY SIMPLIFICATION MIGHT APPEAR TO THESE COUNTRIES A STEP BACKWARDS AND WOULD ALSO LEAD TO LENGTHY DISCUSSION. IMEC MEETING ENDED WITH CONSENSUS THAT IF ANYONE HAS A PROPOSAL TO SIMPLIFY US TEXT THIS SHOULD BE DISCUSSED WITH USDEL BEFORE FEB. 25. (FRENCH DELEGATE HAD ALREADY GIVEN PROPOSED SHORTER VERSION OF US AMENDMENT TO USDEL BUT DID NOT INTRODUCE IT AT IMEC MEETING.)

4. WITH REGARD TO SUGGESTIONS CONTAINED IN REFTEL, USDEL HAS FOLLOWING COMMENTS:

A. ADDITION OF WORDS "OR CRITICIZE" TO TEXT CAN BE TAKEN CARE OF BY HAVING USDEL (PRESUMABLY CONFIDENTIAL

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SUPPORTED BY OTHER SPEAKERS) MAKE CLEAR IN HIS PRESENTATION (BOTH IN COMMITTEE AND, IF APPROPRIATE, IN PLENARY OF GB) THAT INTENTION OF US AMENDMENT AS IT NOW IS BEFORE COMMITTEE IS TO SCREEN OUT RESOLUTIONS WHICH ATTACK, CRITICIZE, ETC., ANY MEMBER WITHOUT PRIOR INVESTIGATION. ACCORDING TO LEGAL ADVISOR WOLF AND ASSISTANT MORGENSTERN, IN ANY FUTURE DISPUTE INTENT OF AMENDED ARTICLE 17, WHEN SCREENING MECHANISM IS BEING APPLIED, REFERENCE WOULD BE MADE TO RECORD OF DISCUSSION IN COMMITTEE AND PLENARY (SIMILAR TO REFERRING TO LEGISLATIVE HISTORY OF NEW LAW), AND LEGAL OPINION WOULD BE RENDERED ON BASIS OF RECORD OF PROCEEDINGS. USDEL CONSIDERS THIS APPROACH SATISFACTORY NOT ONLY SUBSTANTIVELY BUT ALSO TACTICALLY SINCE IT WILL PREVENT LENGTHY DISCUSSION NOW ON WORDING OF AMENDMENT.

B. DELETION OF WORDS "BY NAME" WILL BE HANDLED

EITHER BY USDEL SAYING THIS CHANGE IN TEXT IS
PRESENTED FOR CLARIFICATION OR BY HAVING RECORD OF
DISCUSSION SHOW THIS IS INTENT OF AMENDMENT AS IT
IS NOW BEFORE COMMITTEE.

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C O N F I D E N T I A L SECTION 2 OF 2 GENEVA 1288

C. USDEL DOES NOT CONSIDER IT SUBSTANTIVELY
NECESSARY OR TACTICALLY FEASIBLE TO INTRODUCE
LINKAGE TO ARTICLE 15. ON SUBSTANCE, LEGAL
ADVISOR'S STAFF INFORMS US THAT THERE HAS NOT RPT
NOT BEEN AN ATTEMPT IN PAST TO INTRODUCE POLITICAL
RESOLUTIONS BY HANGING THEM LOOSELY ONTO FORMAL
AGENDA ITEM. USDEL IS AWARE THAT THE KIND OF
RESOLUTION WHICH HAS BEEN MOST TROUBLESOME FOR US
IN RECENT YEARS (CHILE, ARAB-ISRAELI, ETC.) HAS
BEEN INTRODUCED UNDER ARTICLE 17 AND IT IS FOR
THAT REASON THAT US DECIDED TO ATTEMPT TO AMEND
THIS ARTICLE. FOR FOREGOING REASONS, POSSIBILITY
OF USING REGULAR CONFERENCE AGENDA ITEM AS DOORWAY
FOR POLITICAL RESOLUTION SEEMS THEORETICAL RATHER
THAN REAL POSSIBILITY AND WE BELIEVE OUR EFFORTS
SHOULD CONTINUE TO BE FOCUSED, AT LEAST AT THIS
SESSION, ON ARTICLE 17.

TACTICALLY, WE HAVE NOT PREVIOUSLY MADE ANY
REFERENCE TO ARTICLE 15, AND THIS AGENDA ITEM IN
COMMITTEE IS CLEARLY LIMITED TO ARTICLE 17. IF WE
INTRODUCE NEW ELEMENT OF ARTICLE 15 (WHICH APPARENTLY
NO OTHER DELEGATE HAS CONSIDERED) WE WOULD BE
SUBJECT TO CRITICISM FOR BROADENING SCOPE OF
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ALREADY COMPLEX ISSUE, AND MIGHT ALSO FIND OURSELVES DEALING WITH MANY OTHER PROPOSALS WHICH WOULD GREATLY DELAY PROCEEDINGS. FOR ABOVE REASONS, USDEL PROPOSES NOT RAISE ARTICLE 15 AT THIS TIME, LEAVING OPEN WHETHER THIS MAY BE DESIRABLE AT SOME LATER STAGE.

D. USDEL SUGGESTS ONE CHANGE TO TEXT OF US AMENDMENT, WHICH CAN BE MADE EITHER BY CHANGING TEXT "FOR CLARIFICATION" OR BY HAVING RECORD OF PROCEEDINGS SHOW WHAT OUR INTENT IS WITH REGARD TO SECTION 5: WHERE CONFERENCE DELEGATE IS GIVEN OPPORTUNITY TO OBJECT TO A RESOLUTION, CRITERIA FOR OBJECTION SHOULD BE SAME AS IN SECTION 3 A AND B. THIMZ WOULD HELP KEEP THIS AMENDMENT FOCUSED ON SOLVING PROBLEM WHICH LED TO US PROPOSAL, RATHER THAN LEAVING OPEN TO WHOLE SERIES OF OTHER REASONS FOR OBJECTING TO RESOLUTIONS.

5. USDEL PLANS TO DISCUSS PROPOSED APPROACH (PARA 3, 4, 5) WITH US WORKER AND EMPLOYER REPS IN DETAIL DURING NEXT 24 HOURS AND, ON BASIS OF PRELIMINARY TALKS, ANTICIPATES SUPPORT FOR THIS ON BOTH TACTICS AND SUBSTANCE.

6. ACTION REQUESTED: WOULD APPRECIATE DEPT'S CONCURRENCE (BY COB FEB. 24 GENEVA TIME) IN PROPOSED APPROACH, WHICH BASICALLY IS INTENDED TO ENSURE THAT SUBSTANCE OF US POSITION IS ACHIEVED EITHER THROUGH DIRECT CHANGES IN PRESENT TEXT OF AMENDMENT OR BY HAVING RECORD SHOW WHAT US INTENT IS, BUT POSTPONE MAJOR SUBSTANTIVE DISCUSSION TO JUNE CONFERENCE. USDEL BELIEVES THAT BY AVOIDING EFFORT TO MAKE MAJOR CHANGES IN US TEXT AT THIS STATE WE WILL BE IN GOOD POSITION TO DISCOURAGE OTHER DELEGATES' ATTEMPTS. FOCUS OF USDEL APPROACH
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IS TO ENCOURAGE COMMITTEE AND GB TO PASS WHOLE ISSUE TO JUNE CONFERENCE WHERE WE WILL HAVE SUFFICIENT TIME TO CONDUCT EXTENSIVE TALKS AND WHERE APPROPRIATE CHANGES IN US TEXT CAN BE MADE IF NECESSARY. CATTO

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Message Attributes

Automatic Decaptioning: X
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Decaption Date: 01-Jan-1960 12:00:00 am
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Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
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